

U.S. Patent Application No. 10/535,131  
Attorney Docket No. 10191/4150  
Response to Office Action of February 7, 2008

**AMENDMENTS TO THE DRAWINGS:**

The attached three (3) Replacement sheets of drawings including Figures 1 to 4 replace the original sheets containing Figures 1 to 4. In Figs. 1 and 2, shading has been eliminated (where appropriate) to improve legibility. In Figs. 3 and 4, descriptive labels have been provided for the blank boxes.

Attachment: three (3) Replacement sheets.

**REMARKS**

**I. Introduction**

Claims 12 to 24 are currently pending in the present application. Claims 12 to 24 have been rejected by the Office Action. In view of the following remarks, it is respectfully submitted that the pending claims are allowable, and reconsideration is respectfully requested.

**II. Objections to Figures 1 - 4**

In response to the Examiner's objections to Figs. 1-4, Applicants are submitting replacement sheets containing Figs. 1-4 which have been amended in accordance with the Examiner's suggestions. In Figs. 1 and 2, box 22 is intended to show darkness, with only headlights 29 visible (see, e.g., Substitute Specification, p. 6, l. 34 – p. 7, l. 1). In Figs. 3 and 4, descriptive labels for the various boxes have been provided.

In view of the above, it is respectfully requested that the objections for the drawings be removed.

**III. Rejection of Claim 24 under 35 U.S.C. §101**

Claim 24 has been rejected under 35 U.S.C. §101 for allegedly being directed to non-statutory subject matter. While Applicants disagree with the rejection, Applicants have amended claim 24 in accordance with the Examiner's suggestion ("a computer program encoded on a computer-readable medium) in order to expedite prosecution of the application.

In view of the above, it is respectfully submitted that the rejection of claim 24 as being directed to non-statutory subject matter be withdrawn.

**IV. Rejection of Claims 12 to 24 under 35 U.S.C. §102**

Claims 12 to 24 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,327,522 (the "Kojima" reference). Applicants note that this rejection should be withdrawn for at least the following reasons.

To anticipate a claim under § 102(e), a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

With regard to claim 12, the “Kojima” reference does not identically disclose, or even suggest, the claim features of “the at least one processing unit includes an arrangement for **recognizing a course of a roadway** from at least the optical signal, and for controlling the at least one signaling arrangement for producing the item of driver information as a **function of the recognized course of the roadway**.” The Office Action summarily asserts that “[b]ecause of the positioning of the image sensors, obstacles must be on the course of and also define the roadway.” However, it is respectfully submitted that the “Kojima” reference simply does not suggest “**recognizing a course of a roadway**”; instead, the “display control means [of Kojima] … computes distances to **obstacles** contained in the image sensed by the image sensing device … [and displays] only the **obstacle** with the shortest computed distance to the vehicle, and displays an image that has undergone the image processing on the display.” (The “Kojima” reference, column 1, lines 59 to 67, emphasis added). The “obstacle” in the “Kojima” reference is a person. For instance, “the display control means determines an **obstacle**, a radiation temperature of which falls within a predetermined temperature range, to be a **person** on the basis of radiation temperatures of obstacles included in the overall image, prior to extraction of the partial **image that represents the person** from the overall image.” (The “Kojima” reference, column 2, lines 52 to 57, emphasis added).

Thus, the “Kojima” reference recognizes obstacles which are persons. This in no way suggests that it recognizes a course of a roadway, as recited in claim 12.

To the extent the Examiner is contending that it is inherent from the teachings of Kojima that: a) the obstacles necessarily have to be on the road; and b) the obstacles on the road would necessarily define the course of the road. However, there is simply no “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” First, there is simply no suggestion in Kojima that the obstacle (a person) necessarily has to be on the road. Second, even if one assumes for the sake of argument that the obstacles are on the road, there is simply no suggestion in Kojima (or any logical reason) that the obstacles would necessarily define the course of a roadway. For example, three obstacles positioned across the width of the road would not provide any information about the course of the road. Similarly, three obstacles could be positioned in a straight line along a wavy portion of a road, in which case the straight line of the obstacles would not provide any information about the wavy course of the road.

Independent of the above the “Kojima” reference clearly does not provide “driver information as a function of the recognized course of the roadway,” as recited in claim 12. The “Kojima” reference merely “display[s] only the obstacle with the shortest computed distance to the vehicle, and [displays] an image that has undergone the image processing on the display.” (The “Kojima” reference, column 1, lines 64 to 67). Information as a function of the recognized course of the roadway is not presented to the driver, as recited in claim 12. Therefore, claim 12 and its dependent claims 13 to 20 are allowable. Claim 21 includes features like those of claim 12, and therefore claim 21 and its dependent claims 22-24 are allowable for essentially the same reasons as claim 12.

For at least the foregoing reasons, claims 12 to 24 are allowable over the “Kojima” reference. Accordingly, removal of the anticipation rejections is respectfully requested.

**IV. CONCLUSION**

Applicants respectfully submit that all pending claims of the present application are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,



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36,197)

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